

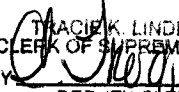
IN THE SUPREME COURT OF THE STATE OF NEVADA

PETER G. LIAKOPOULOS,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 54867

FILED

JUL 15 2010

GRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

ORDER AFFIRMING IN PART, REVERSING IN PART,
AND REMANDING

This is an appeal from a judgment of conviction entered pursuant to a jury verdict of one count each of asking or receiving a bribe by an executive or administrative officer, offering a reward for an appointment, and grafting by a public officer. Fifth Judicial District Court, Nye County; Robert W. Lane, Judge.

First, appellant Peter Liakopoulos contends that NRS 197.030 (bribery) and NRS 281.350 (graft) are unconstitutionally vague. He specifically argues that the word “graft” is vague, the testimony of the Town Board Chairperson and Town Manager indicated that they did not believe that his conduct was criminal, and the State itself admitted that NRS 197.030 was “very broad” during closing argument. We review challenges to the constitutionality of a statute de novo, presume that statutes are constitutional, and require the party challenging a statute to make “a clear showing of invalidity.” Silver v. Dist. Ct., 122 Nev. 289, 292, 129 P.3d 682, 684 (2006). We conclude that the plain language of both NRS 197.030 and NRS 281.350 provides sufficient notice to enable ordinary people to understand what conduct is prohibited and does not

authorize or encourage arbitrary and discriminatory enforcement, see City of Las Vegas v. Dist. Ct., 118 Nev. 859, 862, 59 P.3d 477, 480 (2002), and Liakopoulos has failed to show that these statutes are unconstitutionally vague.

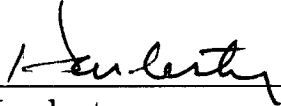
Second, Liakopoulos contends that he was selectively prosecuted as evidenced by the fact that Town Board Chairperson Laurayne Murray was not prosecuted for the same crimes. Liakopoulos asserts that he was prosecuted because he is a Republican and Murray was not prosecuted because she is a Democrat. A claim for selective prosecution arises when the State bases its “decision to prosecute upon an unjustifiable classification, such as race, religion, or gender.” Salaiscooper v. Dist. Ct., 117 Nev. 892, 903, 34 P.3d 509, 516 (2001). “To establish a prima facie case [of selective prosecution], the defendant must show that a public officer enforced a law or policy in a manner that had a discriminatory effect, and that such enforcement was motivated by a discriminatory purpose.” Id. at 903, 34 P.3d at 516-17. We conclude that Liakopoulos has failed to make a prima facie showing of selective prosecution and he is not entitled to relief on this claim.

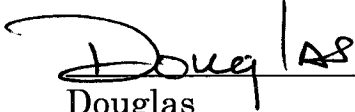
Third, Liakopoulos contends that his convictions for bribery and grafting are redundant because they punish the same illegal act. Convictions are redundant if “the material or significant part of each charge is the same even if the offenses are not the same. Thus, where a defendant is convicted of two offenses that, as charged, punish the exact same illegal act, the convictions are redundant.” State of Nevada v. Dist. Ct., 116 Nev. 127, 136, 994 P.2d 692, 698 (2000). We “reverse redundant convictions that do not comport with legislative intent.” State v. Koseck, 113 Nev. 477, 479, 936 P.2d 836, 837 (1997) (internal quotation marks

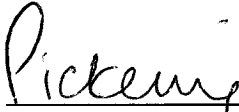
omitted). We conclude that all three criminal counts punished the exact same illegal act and therefore the convictions for offering a reward for appointment and grafting by a public officer must be reversed.

Having considered Liakopoulos's contentions and for the reasons discussed above, we

ORDER the judgment of conviction AFFIRMED IN PART AND REVERSED IN PART AND REMAND this matter to the district court with instructions to vacate the convictions for offering a reward for an appointment and grafting by a public officer and enter a corrected judgment of conviction.¹


_____, J.
Hardesty


_____, J.
Douglas


_____, J.
Pickering

cc: Hon. Robert W. Lane, District Judge
Gibson & Kuehn
Attorney General/Carson City
Attorney General/Las Vegas
Nye County Clerk

¹The effect of our reversal of Liakopoulos's convictions for offering a reward and grafting will be to remove the convictions from his record. It will have no effect on his sentence.